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United States General Accounting Office

GAO

Report to the Honorable
Dennis DeConcini, U.S. Senate

34

June 1990

ARMS CONTROL

U.S. Efforts to Control the Transfer of Nuclear-Capable Missile Technology

GAO/NSIAD-90-176

GAO

United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-237177

June 1, 1990

The Honorable Dennis DeConcini
United States Senate

Dear Senator DeConcini:

This is an unclassified version of a classified report that responds to your request to examine certain aspects of the Missile Technology Control Regime (MTCR). Through the MTCR, the United States and seven of its allies are attempting to limit the availability of certain systems, equipment, and technologies necessary for developing nuclear-capable missiles.

Specifically, you asked that we determine whether the U.S. agencies involved had adopted specific procedures to implement the MTCR; ascertain the numbers of MTCR-related export license applications processed and their disposition, especially those for a missile project in Iraq; evaluate the effectiveness of interagency coordination; and examine the adequacy of U.S. resources devoted to the MTCR. After discussions with your office, we also agreed to examine certain problems and issues facing the MTCR in halting the transfer of MTCR-related systems and technology to countries developing nuclear-capable missile systems. The objectives, scope, and methodology of our work are described in appendix VII.

Results in Brief

The State and Commerce Departments—the U.S. export licensing authorities—have different guidance and procedures for determining which export license applications may be subject to MTCR restrictions. State examines license applications in the context of possible technology transfer and diversion to any country that may be developing nuclear-capable missiles. While the risk of diversion is an important part of its analysis, Commerce focuses its reviews on certain countries that are developing nuclear-capable missiles.

During the first 29 months of the MTCR, Commerce identified 128 license applications subject to missile technology controls, which involved up to 13 countries. For the same period, the Defense Technology Security Administration (DTSA), which reviews applications referred by the State Department, identified about 1,450 export license applications related to missile technology for over 70 countries. Since the MTCR's effective date, the United States reported to the other MTCR members that it had denied

29 licenses (3 by Commerce and 26 by State); the other members combined reported that 13 license applications had been denied. We did not find that any MTCR-restricted items had been approved for export to Iraq since the effective date of the MTCR. Licenses approved for export to Iraq involved items that were not covered by the MTCR, or the license applications were received prior to the MTCR.

The State Department has been charged by a National Security Decision Directive to coordinate MTCR issues among the involved U.S. agencies. Officials from several of those agencies did not consider State's initial efforts to be effective. In mid-1989, State established new procedures, which we did not evaluate but which State believes address most of the other agencies' earlier concerns about the coordination of MTCR issues.

State, the Department of Defense (DOD), and the Arms Control and Disarmament Agency (ACDA) together have seven full-time personnel devoted to providing assistance on license applications and other issues related to the MTCR. MTCR assistance is also provided as needed by other personnel in these agencies as well as in other agencies such as the Department of Commerce and the intelligence agencies. All of these personnel seemed to have the necessary qualifications to support MTCR implementation policies and procedures.

A number of problems face the MTCR, including the need to obtain adherence to its guidelines by other countries that are major sources of missiles. To date, limited progress has been made in obtaining such adherence. However, in commenting on a draft of this report, U.S. agencies pointed out that a December 1989 meeting of the MTCR member nations and a bilateral meeting with Soviet officials were held to discuss many of the problems and issues we identified. More meetings are planned.

Background

The MTCR is a set of identical, national policies announced by the United States, France, the United Kingdom, the Federal Republic of Germany, Japan, Italy, and Canada.[1] Its basic objective is to limit the transfer of technology and hardware necessary for the development of missiles capable of delivering a 500-kilogram (1,100 pounds) or more payload to a distance of at least 300 kilometers (186 miles). The MTCR was announced on April 16, 1987, after several years of discussion and limited implementation of the arrangement by its members.

[1] In December 1989, Spain became a member of the MTCR.

Under the MTCR, each nation agreed to identical export guidelines, in accordance with its national legislation, to control the transfer of 18 types of items and technology. The first two items basically consist of complete rockets and missiles, major subsystems, and their production equipment and technology; it is presumed that exports of these items will be denied. The transfer of production facilities for these items is not currently authorized. The other 16 types of items can be used to develop, assemble, operate, support, and launch missiles. These items—such as flight control and avionics equipment—may also be used in manned aircraft, civilian satellites, or shorter range weapon systems. Export license applications involving these items are reviewed on a case-by-case basis.

In evaluating a request to export any of these items, the member nations are to consider nuclear proliferation concerns; the capabilities and objectives of the missile and space programs of the recipient country; the significance of the transfer in terms of the potential for development of nuclear weapons delivery systems other than manned aircraft; the end use of the transfer, including end-use assurances by the recipient countries; and the applicability of relevant multilateral agreements. The guidelines also state that they are not designed to impede national space programs or international cooperation in such programs as long as the programs cannot contribute to nuclear weapons delivery systems.

U.S. implementation of the MTCR involves several agencies. The National Security Council, under the President, formulates and oversees overall U.S. policy. The State Department, in accordance with a National Security Decision Directive, coordinates MTCR activities among the U.S. agencies and the other MTCR members. State's Office of Munitions Control and the Commerce Department's Office of Export Licensing are responsible for administering export controls through their respective licensing regulations. DOD, ACDA, and other agencies review and provide advice on whether to approve MTCR-related license applications. State chairs interagency meetings and forums as the principal means of coordination. No legislation was enacted and no new organizations were established exclusively to implement the MTCR, but personnel were hired or assigned to focus on missile technology issues.

U.S. Procedures and Processes

State controls MTCR items under the Arms Export Control Act, as amended, and Commerce controls them under the Export Administration Act of 1979, as amended. Each licensing office established its own procedures for reviewing license applications and deciding whether the

items are controlled by the MTCR and, if so, whether the licenses should be approved and under what conditions.

State's Office of Munitions Control

When State receives an export license application which includes items that may come under the MTCR, the licensing officer consults a State manual and refers to the country where the item is to be shipped. The manual states the action to be taken on the license application, such as "staff," which means that coordination with other agencies is necessary, or "deny." When no restrictions are cited in the manual, for example, for U.S. allies, the licensing officer may issue a license without further action. According to the licensing officer responsible for handling the majority of missile technology items, most applications not going to a North Atlantic Treaty Organization (NATO) activity are coordinated with other agencies.

Missile technology applications that are required to be coordinated are sent to DOD, ACDA, and other agencies or organizations, as appropriate. At DOD, extensive reviews are done by DTSA, the Office of Non-Proliferation Policy, and other supporting organizations. Certain intelligence information is considered in the decision-making process.

Commerce's Office of Export Licensing

When an export license application is received by Commerce's Office of Export Licensing, the licensing officer or analyst refers to a Commerce manual to determine whether the item may be controlled under the MTCR and, if so, whether it is destined for a country that is—according to intelligence agencies—developing a missile project of concern. If the analyst believes this situation is possible, an in-house engineer is consulted. If the engineer confirms or suspects that the item is subject to MTCR controls, the application is referred for review to the Office of Technology and Policy Analysis in Commerce. Since about mid-1989 all export applications for confirmed MTCR-controlled items have been sent to the State Department for its views. The licenses are discussed at State's biweekly interagency meetings.

Commerce's Office of Export Enforcement also screens all license applications against classified and unclassified computerized lists of individuals and firms that are of concern to export enforcement officials. This screening is done twice—when a license application is initially received and just prior to a license approval. However, the classified list contains a limited amount of information on possible missile diversions. In May 1989, the Director, Office of Export Intelligence (now called the Office

of Enforcement Support), Bureau of Export Administration, informed us that the Bureau had received from the State Department approximately 500 names associated with missile technology concerns. However, only about 100 of these names had been incorporated into Commerce's screening process because, according to the Director, the computer's capacity was limited.[2]

After considering all available information, the Office of Technology and Policy Analysis recommends to the Office of Export Licensing denial or approval of a license, with or without assurances, or return of the application to the exporter for more information. If assurances are necessary, they are requested by the Department of State from the recipient government on behalf of Commerce.

In addition, DOD reviews some applications for national defense reasons through a procedure established prior to the MTCR in a 1985 presidential directive. Under this procedure, DOD has identified a number of applications for the export of items that it believes should be controlled under the MTCR guidelines. Commerce has not always agreed with DOD's classification of items as subject to MTCR controls and, as a result, some applications have been sent to the National Security Council for help in coordinating interagency discussion and resolving issues between the involved agencies.

MTCR-Related Export License Applications

The total number of export license applications (MTCR-related items and others) handled annually by State and Commerce is about 50,000 and 100,000, respectively. Available information indicates that missile technology export license applications account for a very small percentage of the total.

State's Office of Munitions Control

State receives between 80 and 90 percent of the MTCR-related export license applications. State could not readily determine the number of missile technology applications processed and the actions taken on them. However, DTSA stated that from April 16, 1987, to September 15, 1989, it identified 1,457 applications that appeared to be subject to MTCR

[2]In responding to a draft of this report Commerce stated that all 500 names could have been entered on the computer for screening but Commerce officials believed that, based on intelligence information, only 100 names indicated participation in missile technology activities. According to Commerce, including all 500 names would have unduly increased their work load without any commensurate benefits.

controls[3] involving over 70 countries. These were part of a larger number of cases forwarded from State's Office of Munitions Control to DTSA as part of State's normal process in reviewing export license applications. The State Department's records showed that State had reported 26 denials by its Office of Munitions Control to the other MTCR members.

Commerce's Office of Export Licensing

Commerce receives between 10 and 20 percent of the MTCR-related export license applications. Commerce stated that from April 16, 1987, to September 15, 1989, it received 128 applications subject to missile technology controls. For this period, two denials were initially reported to the State Department. We noted during our review that three other MTCR-related export license applications were denied but not reported to State. We brought these cases to the attention of Commerce and State. As a result, a denial made by Commerce in November 1988 was reported to the other MTCR members in June 1989, and the remaining two denials will be reported to the other MTCR members, but had not been as of December.

Other MTCR Members

No information was available on the number of missile technology items processed by the other six MTCR members. However, during the first 29 months of the MTCR a total of 13 denials were reported by the other members.

Export Licenses for Iraq

We did not identify any MTCR-related license applications for exports to Iraq that had been received by State and Commerce since the effective date of the MTCR. Two license applications for export to Iraq concerned certain computers and related equipment that might be subject to MTCR controls. However, Commerce denied them in December 1988 and January 1989 after DOD recommended rejection. The exporters were informed that granting the licenses would be detrimental to U.S. national security. We examined 20 other export license applications received by Commerce for an Iraqi research center that had been linked to efforts to develop ballistic missiles. Sixteen were approved, but none were for items considered controlled by the MTCR, or the applications preceded the effective date of the MTCR. However, two of the approved licenses issued by Commerce were later suspended, after DOD expressed its concern, on the

[3]The number of actual applications subject to MTCR controls may be understated or overstated. Some applications for items going to NATO activities are approved by State without referral, and some others identified by DTSA may not be subject to MTCR controls.

basis of substantial risk of diversion to an unauthorized end use. (See app. I.)

In commenting on the draft report, DOD expressed the view that the example of U.S. dual-use exports to the Iraqi missile project demonstrates the need to improve the U.S. missile technology control process. DOD further stated that dual-use Commodity Control List items not covered by the regulations implementing the MTCR have gone to missile projects of concern in the past. Such cases, according to DOD, could be denied under existing authority if the Department of Commerce and State would agree to do so.

Efforts to Improve Interagency Coordination

The State Department has been tasked by the National Security Council to coordinate various policy issues. Originally, most unresolved issues were escalated to the National Security Council. Under current procedures, State's Policy Coordination Committee on Nonproliferation[4] resolves most issues without recourse to the National Security Council. Commerce officials stated, however, that under existing legislation, export license disputes cannot be transferred from Commerce to any other organization or committee. According to State, an executive order should be promulgated that grants the Policy Coordination Committee the authority to resolve all MTCR-disputed cases.

Until about February 1989, biweekly meetings were held at the State Department to coordinate various MTCR issues. A number of officials expressed dissatisfaction with this process. ACDA officials thought the coordination meetings were good for disseminating information but that they had a mixed record in deciding issues. A Commerce official expressed a similar opinion, stating that the meetings were useful to communicate information among agencies, especially intelligence information, but that decisions were never made. Also, a DOD official said in early 1989 that the meetings at that time leaned toward philosophical rather than case discussions, which DOD did not consider helpful in implementing the MTCR.

In this regard, another DOD official said in January 1989 that he had been attempting for nearly 2 years to have Commerce control rocket

[4]The Policy Coordination Committee is chaired by State's Under Secretary for Security Assistance, Science and Technology. Relevant executive agencies are represented on the Committee, which serves to develop and coordinate administration policy for missile technology and other nonproliferation matters.

propellant batch mixers under the MTCR. In December 1989, the Commerce Department informed us that it was finalizing regulations imposing export controls on the rocket propellant batch mixers. Commerce officials further stated that they had consulted with industry, requested the Department of State to consult with other countries, and prepared the report to Congress addressing the political and economic impact of the controls.

Starting in mid-1989, State established a new process to coordinate MTCR issues under the Policy Coordination Committee. A subgroup of the Committee—chaired by State's Deputy Assistant Secretary, Bureau of Politico-Military Affairs, and comprised of representatives from Commerce, DOD, and ACDA—was organized to look at policy issues. The group has been meeting on an ad hoc basis. Agencies' officials told us that there was consensus that regular meetings to address an agreed-upon work plan were desirable, but this had not been implemented as of December 1989.

In addition, two other biweekly meetings on missile technology control issues are staggered so that a meeting is now held every week. These subgroup meetings are chaired by State personnel from the Bureau of Politico-Military Affairs and attended by officials from DOD, Commerce, the Central Intelligence Agency, the Defense Intelligence Agency, the National Aeronautics and Space Agency, and ACDA. One meeting involves export license application reviews. The other deals with foreign support to missile technology projects of concern and other related programs (such as diversions).

As these new efforts had been recently established, we did not evaluate their effectiveness. However, a State official believes that the new biweekly meetings will address many of the concerns raised over the earlier process. DOD also stated in its comments on a draft of this report that it believes the interagency missile technology progress has improved during the last 6 months of 1989, although there was plenty of room for further improvement.

Personnel Resources Devoted to the MTCR

DOD, the State Department, and ACDA together have seven full-time personnel devoted to missile technology issues related to the MTCR. All of these personnel appear to have the necessary qualifications to support MTCR implementation policies and procedures. Other support is provided

by personnel in these Departments and others who are involved in policy, license review, and other functions related to the MTCR as well as other weapons nonproliferation policies.

DOD employs three full-time MTCR personnel, who are located in the Office of Non-Proliferation Policy, Office of the Secretary of Defense. DOD also receives assistance from its Defense Intelligence Agency and has a research contract with Lawrence Livermore National Laboratory. Because of the varied nature of this assistance, it is not possible to identify specific personnel assigned to implement the MTCR.

We could not determine if the number of DOD personnel assigned to MTCR issues was adequate, but we noted that the National Defense Authorization Act for fiscal years 1988 and 1989 required the Secretary of Defense to (1) assess the adequacy of staffing to support the MTCR and (2) recommend corrective measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination of MTCR activities. Although the report was due by February 1, 1988, it had not been completed at the time of our review.[5]

A DOD official did state in testimony before the Senate Foreign Relations Committee on October 31, 1989, that DOD had established and given consolidated responsibility for all forms of proliferation, including missiles, to a newly created position of Deputy for Non-Proliferation Policy in the Office of the Assistant Secretary of Defense, International Security Affairs. The Deputy's office will have 10 full-time positions dedicated to proliferation issues.

The State Department employs three full-time MTCR personnel, who are located in the Office of Weapons Proliferation Policy (formerly the Office of Strategic Technology and Nuclear Affairs), Bureau of Politico-Military Affairs. This office coordinates missile nonproliferation activities as well as chemical and biological weapons nonproliferation activities. State also receives some assistance from its Office of Intelligence and Research that, according to a State official, was difficult to attribute to specific staff. No Office of Munitions Control employees devoted more than half of their time to MTCR issues. However, a State Department official stated in testimony before the Senate Foreign Relations Committee on October 31, 1989, that State was planning a substantial expansion of the Office of Munitions Control, including hiring new officers and

[5]Section 1639(a), National Defense Authorization Act for Fiscal Years 1990 and 1991 (P.L. 101-189), extends the reporting date to 60 days after the date of enactment of that act.

installing a new computerized system for tracking cases. He further noted that these measures will ensure efficient processing of license applications and rigorous enforcement of decisions to further missile nonproliferation objectives.

The Commerce Department receives a small number of applications for missile technology items and therefore does not have anyone in its licensing office or other offices devoting more than half of their time to implementing the MTCR. However, Commerce officials stated that a special assistant in the Assistant Secretary's Office and an analyst in the Office of Technology and Policy Analysis devote 40 and 30 percent of their time, respectively, to MTCR issues.

ACDA has one employee who spends full time and one who spends about half time on missile technology activities. In addition, other ACDA staff also devote some time to missile proliferation activities. We were informed that the Central Intelligence Agency has at least one person working full time on missile technology issues; however, the Agency would not discuss the matter with us, and we could not substantiate this number.

MTCR Problems and Issues

A number of problems face the MTCR in achieving its goal of limiting the proliferation of nuclear-capable missiles. They include delays in reaching agreement on the expansion of MTCR membership or acceptance of its guidelines by key supplier countries, such as the Peoples Republic of China and the Soviet Union, and the continued differences of opinions and approaches among partners on key issues such as what, if any, limitations should be placed on support to civilian space programs and the need to improve enforcement of MTCR controls. (See app. II.)

Agency Comments and Our Evaluation

The Departments of Defense, State, and Commerce, and ACDA generally concurred with the report. However, each of the agencies called attention to actions that have taken place since late November 1989 when we provided each our draft report for review and comment. We have incorporated their comments and suggestions into the report where appropriate.

We plan no further distribution of this report until 10 days from its issue date. At that time, copies of the report will be sent to the Secretaries of Defense, State, and Commerce; the Director of ACDA; cognizant congressional committees; and other interested parties.

If you or your staff have any questions, I can be reached on (202) 275-4128. Other major contributors to this report are listed in appendix VIII.

Sincerely yours,

Joseph E. Kelley

Joseph E. Kelley
Director, Security and International
Relations Issues

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Abbreviations

ACDA	Arms Control and Disarmament Agency
DOD	Department of Defense
DTSA	Defense Technology Security Administration
MTCR	Missile Technology Control Regime
NATO	North Atlantic Treaty Organization

Export Licensing Cases Involving an Iraqi Missile Facility

To ascertain whether the United States has been supporting a missile project in Iraq through its export licensing process, we examined a number of licenses for items destined for the SA'AD 16 research center in Iraq. The project, according to various media reports, has been linked to Iraqi efforts to develop ballistic missiles. It had been alleged that the Commerce Department approved exports of missile technology items for the SA'AD 16 facility.

In examining 20 licenses that the Department of Defense (DOD) identified as possible missile technology items that assisted the Iraqi research facility, we noted that 18 of the applications had been received before the effective date of the Missile Technology Control Regime,[1] one had been received in June 1987, and one had been received in April 1988. The total value of the items to be exported amounted to about $4 million. Of the 20 applications, 16 were approved, 3 were returned without action because of insufficient information, and 1 was recommended for denial (as of late January 1990 it had not been formally denied). Thirteen of the 16 licenses were approved (including the 2 received after April 1987) with DOD's concurrence; 3 licenses were approved after DOD did not escalate its objections to the National Security Council within a specific time frame. Two of the licenses approved with DOD's initial concurrence (prior to firm intelligence information) were subsequently suspended. One was for an analog computer and one was for a hybrid electronic computer; both were the subject of considerable controversy between Commerce and DOD.

In November 1986, DOD's Deputy Under Secretary for Trade Security Policy stated in a letter to the Commerce Department's Assistant Secretary for Trade Administration that he had received intelligence information linking the SA'AD 16 research center with ballistic missile development in Iraq. In light of this information, Commerce was urged to suspend the two licenses, if already approved, for the computers. Applications for these licenses were made in 1985, but the items apparently had not been shipped at the time of DOD's letter.

In February 1987, Commerce suspended the license for the analog computer on the basis of substantial risk of diversion to an unauthorized end use within Iraq. However, in a May 1987 response to DOD's letter, Commerce's Assistant Secretary for Trade Administration stated that

[1]The applications were received by Commerce between April 1985 and April 1987. If contracts were entered into prior to the implementation of the MTCR, the relevant export license applications were generally granted in accordance with the contract sanctity provision of section 6 of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2405(m)).

there was an insufficient legal basis for revoking the two licenses. He stated that there were no foreign policy controls on exports of computers to Iraq and that without evidence to show risk of diversion to a proscribed destination, revocation of these licenses was unwarranted. Nevertheless, in a Commerce letter of September 1987, the firm holding the second export license (for the electronic computer) was informed that the license had been suspended due to the risk of diversion.

The suspensions resulted from information provided by DOD to the National Security Council. We were informed that the computers are in a warehouse at an Iraqi port but cannot be used because the United States has not shipped the necessary software. Also, the firm that was to install the computers agreed not to do so at the behest of its government.

MTCR Problems and Issues

A number of problems face the Missile Technology Control Regime (MTCR) in achieving its goal of limiting the proliferation of nuclear-capable missiles. One of the more pressing problems is the need to expand membership in the MTCR or at least to persuade nonmembers to adhere to its principles. Others include the need to reconcile the different positions held by the MTCR members and to improve enforcement of MTCR controls. While the United States and the other MTCR members recognize these problems and issues, progress in addressing and solving them has been slow.[1]

Bilateral Missile Control Efforts

The United States has had several high-level discussions with the Soviet Union and the Peoples Republic of China to seek ways to control the proliferation of missiles capable of delivering nuclear weapons. Also, the United States has had or is planning discussions with several countries that are developing or seeking to acquire missiles and technology controlled by the MTCR.

The Soviet Union

The United States believes that the Soviet Union's support is essential to successfully limiting the proliferation of missile technology. Discussions with the Soviet Union on missile nonproliferation and the MTCR were held in September and December 1988 and December 1989. Further discussions with the Soviets are planned for February 1990.

The Peoples Republic of China

The United States in the fall of 1989 held high-level discussions with China on missile proliferation. The United States stressed the dangers of missile proliferation and sought China's restraint in its export programs. In public statements made in November and December 1989, the Chinese Ministry of Foreign Affairs expressed a willingness to refrain from exporting "medium-range" missiles in the Middle East.

Discussions With Other Countries

The United States has had discussions with Egypt, Israel, Pakistan, and India and plans to continue a dialogue with these countries as part of its global efforts to control missile proliferation. The United States is not pressing to have these countries join the MTCR but hopes that tensions in their respective areas can be lessened through certain measures or

[1] A multilateral meeting of the MTCR partners' governments was held in London in December 1989 to address many of these problems and issues.

agreements. They include notification of missile tests or exercises by the countries and self-restraint on missile deployment.

The United States held preliminary discussions in 1988 with Brazil and Argentina concerning their missile programs. Also, an interagency team held discussions with Argentine officials in September 1989. At this meeting, U.S. officials explained that Argentina's program to develop the Condor II missile and transfer it to countries in the Middle East would have a destabilizing effect.

Different Positions Held by MTCR Members

The United States and some of the MTCR partners differ in two major areas regarding implementation of the MTCR. First, the United States believes that the MTCR members should not assist the development of nuclear-capable ballistic missiles in third-world countries, regardless of whether or not the country is suspected of developing nuclear weapons.

Second, the United States believes that civilian space programs have been used as a conduit for materials and equipment destined for ballistic missiles.[2] As a result, the United States has restricted the transfer of launch and guidance systems technology for civilian space programs in countries that are developing nuclear-capable missiles.

The European partners, in particular France, have adopted a policy to promote what they consider legitimate space programs and often do not draw a connection to military-related ballistic missile programs.

Enforcement Problems

A ballistic missile program in Argentina and programs in other countries have been assisted through clandestine shipments of missile technology items and through technical assistance provided by some MTCR partners' citizens. German and Italian firms and citizens have been cited most often as providing this assistance. In efforts to stem illegal shipments, Germany and Italy have apparently strengthened licensing and enforcement efforts, and the number of these shipments has reportedly declined. However, controlling technical services in the missile area by nationals of these countries is still a problem. Under current laws, neither country (unlike the United States[3]) can prohibit its citizens from

[2]The Director of Central Intelligence stated this in testimony on nuclear and missile proliferation before the Senate Committee on Governmental Affairs, May 18, 1989.

[3]Section 6(a) of the Export Administration Act and section 38 of the Arms Export Control Act, as implemented by part 125 of the International Traffic in Arms Regulations.

providing missile technology assistance outside of their countries. According to Italian officials, a revision to Italy's export laws is being considered to provide controls over such assistance. Germany also intends to revise its laws in this area. A bill that incorporates such controls is currently before the German Congress and is expected to become law in the near future.

We were informed that the United Kingdom also has no laws to prevent its technicians from working in missile technology areas outside the country, but the French do.

Comments From the Department of Defense

Note: GAO's comment supplementing those comments in the report text appears at the end of this appendix.

~~CONFIDENTIAL~~

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-2400

INTERNATIONAL SECURITY AFFAIRS

09 JAN 1990

Mr. Frank C. Conahan
Assistant Comptroller General
National Security and International
Affairs Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report: "ARMS CONTROL: U.S. Efforts to Control the Transfer of Nuclear-Capable Missile Technology (U)," dated November 28, 1989 (GAO Code 467333/OSD Case 8191). The DoD concurs with the report which raises many important issues.

See p. 7.

It is the DoD view that the example of U.S. dual-use exports to the Iraqi SA'AD 16 ballistic missile project (Appendix I) demonstrates the need to improve the U.S. missile technology control process. In particular, dual-use Commodity Control List items, not covered by the regulations implementing the Missile Technology Control Regime, have gone to missile projects of concern in the past. Such cases could be denied under existing authority, if the Departments of Commerce and State agreed to do so.

See comment 1.

See p. 8.

The DoD believes that the interagency missile technology process has improved during the last six months of 1989. While there is plenty of room for further improvement, the DoD agrees that the changes that have been made already are worth noting.

At a recent meeting to discuss the draft report, the DoD separately provided suggested technical/factual changes. The DoD appreciates the opportunity to comment.

Sincerely,

Henry D. Sokolski
Deputy for Non-Proliferation Policy

Attachment
as stated

CLASSIFIED BY: GAO Draft Report
DECLASSIFY ON: OADR

~~CONFIDENTIAL~~

The following is GAO's comment on the Department of Defense's letter dated January 9, 1990.

GAO Comment

1. The last sentence in the second paragraph was deleted. The letter is now unclassified.

Comments From the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

United States Department of State

Washington, D.C. 20520

JAN 16 1990

Dear Mr. Conahan:

This is in response to your letter of November 28, 1989 to the Secretary which forwarded copies of the draft report entitled GAO Draft Report: Arms Control: US Effects to Control the Transfer of Nuclear-Capable Missile Technology (Code 46733) for review and comment.

Enclosed are comments prepared by the Bureau of Politico-Military Affairs.

We appreciate the opportunity to review and comment on the draft report.

Sincerely,

Jill E. Kent
Chief Financial Officer

Enclosure:

As stated.

Mr. Frank C. Conahan
Assistant Comptroller General
National Security and
International Affairs Division
U. S. General Accounting Office
Washington, D. C. 20548.

United States Department of State

Washington, D.C. 20520

JAN 16 1990

Mr. Frank C. Conahan
Assistant Comptroller General
National Security and International
Affairs Division
Washington, D.C. 20548

Dear Mr. Conahan:

The GAO draft report: "ARMS CONTROL: U.S. Efforts to Control the Transfer of Nuclear-Capable Missile Technology," dated November 28, 1989 (GAO Code 467333) has been reviewed by the Department of State. The Department generally agrees with the conclusions of the report, but believes that the information on which they are based is now somewhat out of date.

The Administration, from the President and Vice-President on down, has placed non-proliferation among its top foreign policy priorities. Richard A. Clarke, Assistant Secretary of State for Politico-Military Affairs, recently outlined the Administration's policies and actions in this regard in testimony before the House Foreign Affairs Committee on October 30, 1989 and the Senate Foreign Relations Committee on October 31, 1989. We believe this testimony more accurately reflects the current situation. A summary of the major points and more recent developments follows:

See comment 1.

MULTILATERAL EFFORTS

Our primary vehicle for multilateral cooperation continues to be the Missile Technology Control Regime--the MTCR--which we established on April 16, 1987, along with the governments of the United Kingdom, West Germany, France, Italy, Canada, and Japan. As of April 1989, Spain announced that it would apply the MTCR Guidelines, and it has become an active participant.

See pp. 16 and 17.

Our efforts have not been confined to the MTCR. We have pursued discussions with other supplier countries, such as the Soviet Union, the People's Republic of China, and some neutral countries, as well as with emerging suppliers such as Argentina and Brazil. The goal of these discussions is to induce restraint in supplying missile technology, as well as to voice our concerns over specific projects and transfers. In addition, we have encouraged discussions between key nations both in the Middle East and in South Asia in order to reduce the perceived need for missiles and missile technology.

See pp. 8-10.

GREATER EMPHASIS

We have taken several steps to strengthen our control of missile-related exports and implement our responsibilities under the MTCR. The Under Secretary for Security Assistance, Science and Technology coordinates missile proliferation policy. He chairs the interagency Policy Coordination Committee (PCC) on non-proliferation, which includes nuclear, chemical, and biological weapons, as well as missiles. All of the relevant executive agencies are represented on the PCC.

Within the Department of State, the Politico-Military Bureau (PM) has primary operational responsibility for missile non-proliferation. In order to strengthen our efforts, we have created a new Office of Weapons Proliferation Policy, which coordinates missile non-proliferation activities as well as chemical and biological weapons non-proliferation.

We are taking steps to standardize the review of export cases controlled by both the Commerce and State Departments and to improve the interagency coordination process. First, last June we created the PM-chaired Missile Technology Export Control Group (MTEC). With missile technology experts from State, DoD, Commerce, NASA, ACDA, and the intelligence community, the group reviews over 1100 export license cases annually.

We have also created the Missile Trade Analysis Group (MTAG) which formalizes cooperation among State, DOD, Commerce, ACDA and the intelligence community to analyze foreign involvement in ballistic missile and space launch vehicle programs. The MTAG meets regularly to ensure timely and appropriate action on information pertaining to the flow of goods and services into missile testing, development, and production facilities.

Third, we have expanded the Office of Munitions Control, which processes export licenses for missile technology-related items on the U.S. Munitions List. We are hiring new officers and installing a new computerized system for tracking cases to ensure efficient processing of license applications and rigorous enforcement of decisions.

See pp. 16 and 17.

IMPORTANT SUCCESSES

In cooperation with our MTCR partners, we have had a significant impact on the Condor missile program, which has involved the governments of Egypt, Iraq, and Argentina. Our cooperative efforts with the Italian and German governments were successful in restricting exports from companies in those countries to the Condor program. We have had several productive exchanges on the subject of missile proliferation with the People's Republic of China.

See pp. 2 and 16

We met with our MTCR partners in December 1989 and agreed upon procedures to expand the MTCR beyond the original seven members. The latest member, Spain, attended the December multilateral meeting. The impending dissolution of trade barriers within the European Economic Community in 1992 places an urgent imperative on the MTCR partners to bring the eight remaining EC governments into the Regime.

Finally, we are working with our MTCR partners to iron out differences in interpretation of the MTCR guidelines. We believe that all of these actions have significantly strengthened the Administraion's ability to deal with missile proliferation.

Sincerely,

Elizabeth G. Verville by FMS

Elizabeth G. Verville
Deputy Assistant Secretary
For Politico-Military Affairs

See comment 2.

Attachment: Copy of PM Statement before HFAC and SFRC

The following are GAO's comments on the Department of State's letter dated January 16, 1990.

GAO Comments

1. Our draft report already recognized the major points State made during the October 1989 congressional testimony. However, we have revised the report, as appropriate, to further highlight these points and to reflect the results of multilateral and bilateral meetings that recently occurred.

2. We have not included the statement made by the State Department before the congressional committees because we believe State's letter adequately summarizes and updates the testimony.

Comments From the Department of Commerce

Note: GAO's comment supplementing those comments in the report text appears at the end of this appendix.

UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for Export Administration
Washington, D.C. 20230

February 6, 1990

Mr. Frank Conahan
Assistant Comptroller General
General Accounting Office
National Security and
International Affairs Division
Washington, D.C. 20548

Dear Mr. Conahan:

Mr. Raymond Plunkett, a GAO evaluator, has requested supplementary information relating to our December 22, 1989, response to GAO's draft report titled, ARMS CONTROL: U.S. Efforts to Control the Transfer of Nuclear-Capable Missile Technology. Our response to this request is provided below.

Security Classification

See comment 1.

As requested, please find a copy of our December 22 response with each paragraph appropriately marked as to security classification. We have retained the classification "Secret" for the last paragraph on the first page of the response only because the draft report was not appropriately marked by paragraph when submitted to us for review. Consistent with Executive Order 12356 and Departmental Administrative Order 207-2, we are required to mark our document at the same classification level as the source document. Our comments (last sentence of last paragraph) are unclassified. You may reclassify the paragraph at the level required for the quotation.

Similarly, please note that on the second page of the copy of our December 22 response, we have bracketed information that originated from the State Department and the information should be referred to them for disposition or determination of classification. The classification of the non-bracketed information is shown in parentheses.

Section 12(c) Export Licensing Information

We were also asked to identify export licensing information in the draft report requiring protection under section 12(c) of the EAA. Such export licensing information is contained in Appendix I, "Export Licensing Cases Involving an Iraqi Missile Facility." Information subject to section 12(c) may not be disclosed publicly unless the Under Secretary of Commerce for Export Administration makes a determination that disclosure of the information is in the national interest. Such a dertermination has been made with regard to the information in question. Accordingly, there is now no statutory bar to the public release of this information.

Office of Export Intelligence Screening

See p. 5.

In addition, we were asked to comment further on our entry of certain names for screening purposes. Based on review of up-to-date information and discussions with your analyst, we have determined that we had the capability to enter all the names discussed under the section on "Office of Export Intelligence Screening" into our screening process, albeit with some difficulty. We are in the process of enhancing our capacity to deal with additional entries.

However, even though we could have entered all the names, we were given no basis on which to evaluate them nor were we even informed of the originating agency. By agreement, no information of this kind from the Intelligence Community is used by this Bureau, even to request a pre-license check, without prior clearance from the originator. Accordingly, lists of names alone are of little operational use to us. Further, listing would cause every license application submitted by listed firms to be forwarded to enforcement officials for review, even when missile-related items were not proposed for export. Finally, the document quoted in the third paragraph on page two of our response was received by this Bureau on June 7, 1989, and superseded prior correspondence regarding the lists of names.

If you have any further questions regarding this or our previous response to the draft report, please contact Jim LeMunyon, Deputy Assistant Secretary for Export Administration, at (202) 377-5711.

Sincerely,

Dennis Kloske

See comment 1.

Enclosure

The following is GAO's comment on the Department of Commerce's letter of February 6, 1990.

GAO Comment

1. We have not included a copy of the referenced December 29, 1989, letter since certain aspects of it are classified. We have revised the report, however, where appropriate, to incorporate Commerce's comments as well as its suggestions to improve the technical accuracy and clarity of certain statements.

Comments From the Arms Control and Disarmament Agency

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

~~CONFIDENTIAL~~

ASSISTANT DIRECTOR

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

January 16, 1990

Dear Mr. Conahan:

See comment 1.

We have reviewed the draft GAO report entitled "ARMS CONTROL: U.S. Efforts to Control the Transfer of Nuclear-Capable Missile Technology" (code 467333). ACDA concurs in the draft report as amended during informal staff-level discussions. (U)

See comment 2.

We appreciated the opportunity to participate in this review, and the cooperation of the GAO staff in considering the comments offered on the draft report. (U)

Sincerely,

N. A. Wulf

Norman A. Wulf,
Acting

Mr. Frank C. Conahan
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

See comment 2.

~~CONFIDENTIAL~~

DECL: OADR

The following are GAO's comments on the Arms Control and Disarmament Agency's letter dated January 16, 1990.

GAO Comments

1. In addition to providing these written comments, ACDA informally provided suggestions to improve the technical accuracy of the report. We have incorporated them in the text, where appropriate.

2. Reference to an ongoing classified review was deleted from the letter. This letter is now unclassified.

Objectives, Scope, and Methodology

Our objective was to examine U.S. agencies' procedures for implementing the MTCR. Specifically, we reviewed the export licensing process for MTCR-restricted items, the interagency coordination involved, and the adequacy of U.S. resources devoted to the MTCR. We also examined certain problems and issues facing the MTCR in halting the flow of technology to countries developing nuclear-capable missile systems.

Our work was conducted in the United States at the Departments of State, Commerce, and Defense; the National Security Council; and ACDA. We reviewed policy documents, certain intelligence reports, correspondence with other MTCR partners, records of meetings, licensing files, and denial records and held numerous discussions with agency personnel, particularly at DOD, State, and Commerce.

The Central Intelligence Agency would not discuss U.S. MTCR efforts with us but did let us read one of its reports on the MTCR.

Overseas, we reviewed embassy records and obtained embassy and foreign government officials' views about the MTCR. We met with U.S. embassy and foreign government officials in Italy, West Germany, and the United Kingdom and with a U.S. embassy official in France. We sought to meet with French officials, but they were not available during our European trip. We selected these European countries because, after the United States, they are the members about which there is the most reporting.

We conducted our review between September 1988 and October 1989 in accordance with generally accepted government auditing standards.

Major Contributors to This Report

National Security and International Affairs Division, Washington, D.C.	Albert H. Huntington, III, Assistant Director Raymond A. Plunkett, Evaluator-in-Charge Margaret E. Gaddy, Evaluator